

ENTERED

June 14, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

VERNON KING, JR.,
(TDCJ-CID #590316)
Plaintiff,

vs.

D.D. LOTT, *et al.*,

Defendants.

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CIVIL ACTION H-18-1915

MEMORANDUM ON DISMISSAL

Vernon King, Jr., a Texas Department of Criminal Justice inmate, sued in June 2018, alleging civil rights violations resulting from an excessive use of force. King seeks leave to proceed in forma pauperis. Proceeding pro se, King sues eleven prison officials at the Estelle Unit. The threshold issue is whether King's claims should be dismissed as barred by the three-strikes provision of 28 U.S.C. § 1915(g).

King alleges that on May 15, 2018, he was subjected to an excessive use of force. He claims that prison officials forcibly removed him from his cell. He further claims that he was accused of having contraband, metal pieces of a wheelchair, in his cell. He seeks unspecified injunctive relief.

A prisoner may not bring a civil action in forma pauperis in federal court if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, unless he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

Prior to filing this action, he had at least one suit and two appeals dismissed as frivolous: (1)

King v. Pace, 6:97cv0435 (dismissed as frivolous on June 16, 1997)(E.D. Tex.); (2) *King v. Dowdy*, 96-50256 (dismissed as frivolous on July 16, 1996)(5th Cir.); and (3) *King v. Little*, 96-50183 (dismissed as frivolous on June 27, 1996)(5th Cir.). In the present case, King has not alleged, nor does his complaint demonstrate, that he is in imminent danger of serious physical injury. He is barred under 28 U.S.C. § 1915(g) from proceeding in forma pauperis in this action.

King's motion to proceed as a pauper, (Docket Entry No. 2), is DENIED. The complaint filed by Vernon King, Jr., (TDCJ-ID #590316), is dismissed under 28 U.S.C. § 1915(g).¹ All pending motions are denied. King is warned that continued frivolous filings may result in the imposition of sanctions.

The Clerk will provide a copy of this order by regular mail, facsimile transmission, or e-mail to:

(1) the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas 78711, Fax: 512-936-2159;

(2) the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793; and

(3) the Manager of the Three-Strikes List for the Southern District of Texas at:

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In *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1998), the Fifth Circuit barred an inmate from proceeding further under the statute, except for cases involving an imminent danger of serious physical injury, and dismissed all of Adepegba's in forma pauperis appeals pending in that court. The Fifth Circuit noted that the inmate could resume any claims dismissed under section 1915(g), if he decided to pursue them, under the fee provisions of 28 U.S.C. §§ 1911-14 applicable to everyone else.

Three_Strikes@txs.uscourts.gov.

SIGNED at Houston, Texas, on JUN 13, 2018.

A handwritten signature in black ink, appearing to read "Vanessa D. Gilmore", written over a horizontal line.

VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE